IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.2700 OF 2004
IN
WRIT PETITION NO.8395 OF 2003
IN
RECOVERY APPLICATION NO.4625 OF 2003-2004

The Vishweshwar Sahakari Bank Ltd. ..Applicants.
(Original Respondent No.1)

Vs.

Saroj Bora & Ors. ..
Respondents.
(Original Petitioners).

WITH
CIVIL APPLICATION NO.2691 OF 2004
IN
WRIT PETITION NO.8091 OF 2003
IN
RECOVERY APPLICATION NO.4627 OF 2003-2004

The Vishweshwar Sahakari Bank Ltd. ..Applicants.
(Original Respondent No.1)

Vs.

Mrs.Sonal Dilip Bora & Ors. ..
Respondents.
(Original Petitioners).

WITH
CIVIL APPLICATION NO.2696 OF 2004
IN
WRIT PETITION NO.8093 OF 2003
IN
RECOVERY APPLICATION NO.4642 OF 2003-2004

The Vishweshwar Sahakari Bank Ltd. ..Applicants.
(Original Respondent No.1)

Vs.

M/s. Auto Star Services & Ors. ..

Respondents.
(Original Petitioners).

WITH
CIVIL APPLICATION NO.2697 OF 2004
IN
WRIT PETITION NO.8089 OF 2003
IN
RECOVERY APPLICATION NO.4626 OF 2003-2004

The Vishweshwar Sahakari Bank Ltd. ..Applicants.
(Original Respondent No.1)
Vs.
M/s. Bora Transport Co. & Ors. ..
Respondents.
(1 to 3 Original Petitioners).

WITH
CIVIL APPLICATION NO.2714 OF 2004
IN
WRIT PETITION NO.8506 OF 2003
IN
RECOVERY APPLICATION NO.4628 OF 2003-2004

The Vishweshwar Sahakari Bank Ltd. ..Applicants.
(Original Respondent No.1)
Vs.
Mr. Manoj Madanlal Bora & Ors. ..
Respondents.
(1 to 3 Original Petitioners)

WITH
CIVIL APPLICATION NO.2747 OF 2004
IN
WRIT PETITION NO.8422 OF 2003
IN
RECOVERY APPLICATION NO.4624 OF 2003-2004

The Vishweshwar Sahakari Bank Ltd. ..Applicants.
(Original Respondent No.1)
Vs.

Mr. Manoj Madanlal Bora & Ors. ..
Respondents.

(1 to 3 Original Petitioners)

...

Mr. Mohan Jayakar i/b M/s. Khaitan & Jayakar for the Applicants – Original respondent No.1.
Mr. G.S. Godbole for respondent Nos.1 to 3 – original petitioners.
Mr. S.R. Nargolkar, AGP for the State – respondent Nos.4, 5 and 6.

....

CORAM : S. RADHAKRISHNAN &
DR.D.Y.CHANDRACHUD, JJ.

23rd November, 2004.

P.C. :

1. Heard learned counsel for the applicants and learned counsel for respondent Nos.1 to 3 being the original petitioners and learned AGP for respondent Nos.4, 5 and 6.

2. By this Civil Application, the applicants being the original respondents seek vacation of the interim order granted by this Court on 16th April, 2004 whereby the proceedings before the Assistant Registrar, Co-operative Societies under Section 101 of the Maharashtra Co-operative Societies Act, 1960 have been stayed until further orders.

3. Learned counsel for the original petitioners has stated that unfortunately on 16th April, 2004 the order passed by the Supreme Court in Appeal (Civil) No.886 of 2004 dated 16th January, 2004 arising out of a Full Bench Judgment of this Court dated 12th December, 2003 in writ petition No.727 of 2003 was not brought to the notice of this Court. By the said order, the petitioners therein were granted leave to file Special Leave Petition and were granted ad interim stay of the said Full Bench Judgment dated 12th December, 2003. We are informed that the stay is still continuing and the main Civil Appeal is to be heard by the Supreme Court.

4. We have also perused the Division Bench order of our High Court dated 7th June, 2004. The Division Bench is of the view that in view of the stay granted by the Supreme Court with regard to the Full Bench Judgment, the courts/tribunals constituted under the Co-operative Societies Act can proceed with the proceedings. In the aforesaid facts and circumstances, rule is made absolute on the Civil Application and the applicants being the original respondents are entitled to proceed before the authority concerned under Section 101 of the Maharashtra Co-operative Societies Act.

5. Learned counsel for the original petitioners seeks stay of this order for a period of two weeks. However, we are not inclined to grant any stay of this order as we have passed the present order based on the order of the Supreme Court, referred to hereinabove.

Parties to act on an authenticated copy of this order issued by the office of this Court.

S.RADHAKRISHNAN, J.

DR.D.Y.CHANDRACHUD, J.